

AMENDED IN SENATE JULY 7, 2008  
AMENDED IN SENATE JULY 2, 2008  
AMENDED IN ASSEMBLY JANUARY 24, 2008  
AMENDED IN ASSEMBLY JANUARY 7, 2008  
AMENDED IN ASSEMBLY DECEMBER 13, 2007  
CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

## ASSEMBLY BILL

**No. 730**

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**Introduced by Assembly Member De Leon  
(Coauthors: Assembly Members Bass, Eng, Karnette, Mendoza,  
and Price)**

February 22, 2007

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An act to add Section 6612 to the Public Contract Code, relating to public contracts.

### LEGISLATIVE COUNSEL'S DIGEST

AB 730, as amended, De Leon. Public contracts: information technology goods and services: protections against default.

Existing law governs the procurement of materials, supplies, equipment, and services by state and local agencies, regulates the acquisition of information technology goods and services by the state, and sets forth various requirements, as provided, to be followed by a vendor in bidding for a contract for goods and services with a state or local agency, as specified.

This bill would require any bidder on ~~an~~ *a contract for* information technology, goods ~~and~~ *or* services contract with a public entity to disclose any ongoing litigation within the United States, and any

litigation in which it had been named as a party to the lawsuit within the previous 5 years within the United States. This bill would require any contract for information technology goods or services entered into between a public entity and vendor who has been found liable for breach of contract, as specified, to contain taxpayer protections against default or failure to fulfill the obligations of the contract, as specified.

~~This bill would provide that each public entity, in its sole discretion, shall determine whether a particular contract is a contract for information technology goods or services and subject to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 6612 is added to the Public Contract  
2 Code, to read:

3 6612. (a) *This section shall be known and may be cited as the*  
4 *Information Technology Vendor Transparency and Taxpayer*  
5 *Protection Act.*

6 (b) *For purposes of this section, "information technology"*  
7 *includes, but is not limited to, all electronic technology systems*  
8 *and services, automated information handling, system design and*  
9 *analysis, conversion of data, computer programming, information*  
10 *storage and retrieval, requisite system controls, simulation, and*  
11 *electronic commerce.*

12 (c) Any bidder on an information technology goods ~~and~~ or  
13 services contract with a public entity, as defined in Section 1100,  
14 shall be required to disclose any ongoing litigation within the  
15 United States, and any litigation in which it had been named as a  
16 party to the lawsuit within the previous five years within the United  
17 States.

18 ~~(b)~~

19 (d) Any contract for information technology goods or services  
20 entered into between a public entity and a vendor, that has been  
21 found liable by a court of competent jurisdiction within the United  
22 States for breach of an information technology goods or services  
23 contract awarded by a public entity, shall contain taxpayer  
24 protections against default or failure to fulfill the obligations of  
25 the contract.

26 ~~(e) Subdivision (b) shall only apply to vendors found liable for~~

1     ~~(e) Subdivision (d) shall only apply to vendors found liable for~~  
2     breach of contract that costs more than one million dollars  
3     (\$1,000,000) and the final judgment exceeded 15 percent of the  
4     cost of that contract and only for a period of five years, beginning  
5     from the date of the final judgment.

6     ~~(d)~~

7     (f) Taxpayer protections shall include at least one of the  
8     following:

9     (1) Performance security, such as a letter of credit, certificate  
10    of deposit, or performance bond, which shall be acceptable to the  
11    public entity.

12    (2) Payment withholds of a substantial portion of the contract  
13    price until final delivery and acceptance of the goods or services.

14    (3) Liquidated damages for delayed performance of key  
15    deliverables or defective performance.

16    ~~(e) Each public entity, in its sole discretion, shall determine~~  
17    ~~whether a particular contract is a contract for information~~  
18    ~~technology goods or services and subject to the provisions of this~~  
19    ~~section.~~

20    ~~(f)~~

21    (g) Nothing in this section shall preempt any debarment  
22    ordinance of any public entity.